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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

In re Pet Foods Products Liability Litigation — MDL - 1850

3:07CV00159-LRH VPC

JOINT MOTION TO VACATE CONDITIONAL TRANSFER ORDER

Defendants Sunshine Mills, Inc., Menu Foods, Inc., and Wal-Mart Stores, Inc. respectfully move this Panel, pursuant to Rule 7.4(d) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, for an order vacating its June 28, 2007 order conditionally transferring to this MDL the Picus v. Wal-Mart Stores, Inc. et al. case, number 2:07-cv-00682-PMP-LRL, and remanding the case to the United States District Court for the District of Nevada. The Undersigned has consulted with counsel for Sunshine Mills, Inc. and Wal-Mart Stores, Inc. and, at their request, asks that that these parties be deemed as joining in this Joint Motion.

As discussed more fully in Defendants' Brief in Support of Joint Motion to Vacate Conditional Transfer Order, the Panel should vacate its prior order conditionally transferring the Picus case to the MDL because the Picus case involves fundamentally different questions of law and fact than the other cases in this MDL. Transfer will not conserve the resources of the parties, their counsel, and the judiciary because, unlike the other MDL cases, the Picus case is not a products liability case, does not relate to allegedly contaminated pet food, does not involve alleged injuries to pets, and does not involve a similar class of plaintiffs.

WHEREFORE Defendants respectfully request that the Panel vacate its June 28, 2007 order conditionally transferring the to this MDL the Picus v. Wal-Mart Stores, Inc. et al. case, number 2:07-cv-00682-PMP-LRL, and request that this case be remanded to the United States District Court for the District of Nevada.

Dated: July 30, 2007

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The undersigned hereby certifies that she served a copy of the foregoing Joint Motion to Vacate Conditional Transfer Order to the following via U.S. mail, postage prepaid, on July 30, 2007:

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